

REMARKS

This is a full and timely response to the Office Action mailed November 7, 2006.

By this Amendment, claim 1 has been amended to more particularly define the range of crystallinity (i.e. *from 1.0 to 6.0%*), crystallization peak temperature range (i.e. *from 135 to 160°C*), and total amount of a moiety derived from isophthalic acid or 1,4-cyclohexanedimethanol (*from 0.6 to 9.0%*). Support for the claim amendments can be readily found variously throughout the specification and the original claims, see, page 10, lines 18-24, page 12, lines 17-22, page 26, lines 23-25, and page 27, lines 1-7, of the specification, and the Examples in the specification (in particular Examples 4, 5, 9, 10 and 15, and the experimental data in Tables 5-7 on pages 72-74 of the specification), and the Comparative Examples (in particular, Comparative Example 4). Thus, claims 1 and 3-20 are currently pending in this application.

In view of this Amendment, Applicants believe that all pending claims are in condition for allowance. Reexamination and reconsideration in light of the above amendments and the following remarks are respectfully requested.

Rejection under 35 U.S.C. §112

Claims 1, 3-8 and 10-20 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Applicant respectfully traverses this rejection. Applicant strongly believes that the Examples of the specification serve as a representative number of species to support the claimed genus of ranges and amounts.

Nevertheless, in order to expedite the allowance of the present application, Applicant has amended the claims to address the Examiner's concerns. Specifically, claim 1 has been amended to more particularly define the range of crystallinity (i.e. *from 1.0 to 6.0%*), crystallization peak temperature range (i.e. *from 135 to 160°C*), and total amount of a moiety derived from isophthalic acid or 1,4-cyclohexanedimethanol (*from 0.6 to 9.0%*) based on the specific teachings on page 10, lines 18-24, page 12, lines 17-22, page 26, lines 23-25, and page 27, lines 1-7, of the specification.

Thus, withdrawal of this rejection is respectfully requested.

As discussed in the Amendment filed October 25, 2006, the Decision on Appeal of September 8, 2006 sustains the previously presented rejection under 35 U.S.C. §103 on the basis

that the rebuttal evidence under 37 C.F.R. §1.132 is “insufficient to overcome the *prima facie* case of obviousness” and believes that “the data points of Examples 1 and 3 are not representative of the entire claimed range”. In order to address the Board’s concerns in this regard, Applicant has amended claim 1 to more particularly define the range of crystallinity (i.e. *from 1.0 to 6.0%*), crystallization peak temperature range (i.e. *from 135 to 160°C*), and total amount of a moiety derived from isophthalic acid or 1,4-cyclohexanedimethanol (i.e. *from 0.6 to 9.0%*) such that the amended ranges as supported by the Examples of the specification are “*sufficient to overcome the prima facie case of obviousness*”.

Applicant believes that the scope of the amended claims fully reflects the experimental evidence and establishes “*that the claimed range is critical since such claimed range as clearly shown by experimental data achieves unexpected results relative to the prior art range*”. For example, Examples 9 and 15 establish that the present invention having a crystallinity of 1.0% and 5.0%, respectively, improves the fusion ratio of prepuffs obtained by using the particles of the present invention to 62 to 93% thereby providing excellent appearance and heat resistance. Likewise, Examples 4, 5, 9 and 10 establish that the present invention having a crystallization peak temperature of 154.5°C, 135°C, 151.2°C and 136.9°C, respectively, and “at least one moiety of a moiety derived from isophthalic acid (IPA) or a moiety derived from 1,4-cyclohexanedimethanol (CHDM) in a total amount of 8.6% and 0.9% by weight”, also improves the fusion ratio of prepuffs obtained by using the particles of the present invention to 62 to 93% thereby providing excellent appearance and heat resistance. Therefore, it is clear that the present invention provides superior technical advantages not expected based on the teachings and suggestions of the cited references. As the Examiner already knows, presence of a property not possessed by the prior art is evidence of nonobviousness. *In re Papesch*, 315 F.2d 381, 137 USPQ 43 (CCPA 1963).

Thus, for at least these reasons, withdrawal of this rejection is respectfully requested.

CONCLUSION

For the foregoing reasons, all the claims now pending in the present application are believed to be clearly patentable over the outstanding rejections. Accordingly, favorable reconsideration of the claims in light of the above remarks is courteously solicited. If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the below-listed number.

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Respectfully submitted,

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